

**CALGARY  
COMPOSITE ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***Smart Technologies ULC, as represented by Altus Group Limited, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***S. Barry, PRESIDING OFFICER***

***J. Rankin, MEMBER***

***A. Wong, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>037182508</b>
<b>LOCATION ADDRESS:</b>	<b>3636 RESEARCH RD NW</b>
<b>HEARING NUMBER:</b>	<b>68020</b>
<b>ASSESSMENT:</b>	<b>\$54,540,000</b>

This complaint was heard on 9th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *D. Chabot, Altus Group Limited*

Appeared on behalf of the Respondent:

- *M. Lau, City of Calgary*

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

[1] As a preliminary matter, the Complainant and the Respondent requested that the Board amend the assessed allocation of space, as follows: 173,968 square feet (sq.ft.) be assessed as Office Space; 21,807 sq.ft. be assessed as below grade Office Space; and 9,094 sq.ft. be assessed as Storage. The Respondent advised, and the Complainant concurred, that these changes would result in a 2012 Assessment of \$53,930,000 before adjustments, if any, as a result of the Complaint. The Board agreed with the request.

**Property Description:**

[2] The property under complaint is an A+ quality, single-tenanted, owner occupied suburban office building, located in the University Research Park within the greater community of Varsity at 3636 Research Rd. NW on 2.76 acres of land. The land use district is Special Purpose – University Research Park. The building was constructed in 2009 and has an assessable building area of 204,869 square feet (sq.ft.). It is assessed using the Income Approach to value applying rent rates of \$21 per sq.ft. for the office space, \$8 per sq.ft. for the below grade office space and \$3 per sq.ft. to the storage space. The City has applied a capitalization rate of 7.0% to the Net Operating Income (NOI) to determine the assessment.

**Issues:**

[3] Other than the space allocation which has been agreed, the Complainant identified the following issues:

- (a) Does a rental rate of \$20 on the office space represent a better indication of value as of July 1, 2011?
- (b) Should the capitalization rate be revised to 7.5 per cent to recognize the restrictions that affect the use of the property?

**Complainant's Requested Value:**

[4] The Complainant requested that the assessment be reduced to \$48,140,000.

**Background Information:**

[5] The land is located within the Special Purpose – University Research Park (S-URP) District; a portion of the bylaw is reproduced in the Complainant's C1 document. The purpose of the District is "intended to accommodate a limited range of uses engaged in scientific research, research and development, and technology commercialization in association with the University of Calgary, the Province of Alberta or the Government of Canada; and accommodate a limited range of complementary support uses". The Permitted and Discretionary uses are quite limited.

[6] The land is owned by the Province of Alberta and is leased to the Complainant "for the purpose and construction and operation of a facility in accordance with the provisions of this Lease." The Lease was produced, in its entirety, within the Complainant's C1 document. The lease is for the 2.76 acres of land and extends for 81 years commencing in 2006. The initial lease rate for the land is set at \$132,000 per year for 10 years. After that date, the land lease will be determined based on market rents that will reflect "Land that is serviced but otherwise unimproved; ... Land that is similarly located; and that is adjusted to reflect the use and development restrictions if any, existing in the Park".

[7] The tenant, being the Complainant Smart Technologies ULC., is the owner of the building. The design and construction of the building was subject to the approval of the Province. The Lease restricts the use and operation of the land and buildings by the tenant to: research purposes including scientific investigation, testing and analysis, laboratory experiments, process development, general administration and operation of the business. Manufacturing is explicitly excluded. The Complainant sub-leases a small portion of the building for related ancillary purposes permitted by the land use bylaw; specifically a daycare facility and a cafeteria.

**Board's Decision and Reasons in Respect of Each Matter or Issue:****1. Office Rental Rate:**

[8] The Complainant provided a chart of three leases in the north-west quadrant of the City showing rents within the valuation at \$13 and \$20 (two leases) per sq.ft. with a median of \$20 per sq.ft. All are in A+ buildings and, while photographs of the buildings were provided, rent rolls were not. The Complainant acknowledged that there is not as much suburban office space in the north-west as in the south-west and south-east. As well, since the building under complaint is owner occupied, there was no leasing information available for it.

[9] The Respondent provided four additional leases, one in the north-west and three in the north-east, with rents in the valuation period ranging from \$20 to \$22 per sq.ft. with a weighted mean of \$20.65. The Respondent's Equity Chart listed five A+ properties, including the subject, that were all assessed at the same rates. The Complainant noted that it was the three leases in the north-east property that were driving the higher rent median.

[10] There was not an abundance of lease information before the Board and what was presented was not supported by rent rolls so that we could see leasing evidence throughout the buildings that were identified as similar, at least in classification. Accordingly, the Board found that there was insufficient evidence to support changing the assessed rent by \$1 per sq.ft. from \$21 to \$20 per sq.ft.

## 2. Capitalization Rate:

[11] The Complainant drew a comparison between this property within the Research Park and other properties located on leased land at the Airport. She provided a document prepared by the City of Calgary, titled Calgary Airport Land Tenants Valuation that was included in a 2009 Assessment Complaint brief for an unrelated property. The City described the peculiarities of land ownership and leasing specific to Airport Lands. Among the key features identified were: long leases of between 25-40 and even 55 years; restricted uses; scarcity of arms-length sales, therefore the primary valuation methodology is the Income Approach; non-owner occupied Assessment Request for Information (ARFI); identified higher risk for Airport tenants "due to annual lease payment to the Calgary Airport Authority (CAA) and the uncertainty of future land lease terms". The report went on to say that "The City of Calgary uses an elevated cap, which is a value above market, to recognize the circumstances of the leasehold relationship with the Airport."

[12] The Complainant said that, although there were no sales in the Research Park and there were very few sales on the Airport lands, there was one at 10707 25 St. NE in 2010 and she provided the sales ARFI for it. Of particular relevance was the property manager's assertion that the cap rate at the time of sale was 7.4 per cent and that the purchase price was adjusted in recognition of the land lease with CAA, through the cap rate, by between 30 to 40 basis points. The Complainant also provided the 2012 Assessment Explanation Summary for that property that showed a cap rate of 7.25 per cent.

[13] Third party reports submitted by the Complainant to support the cap rate request showed A class suburban office rates, not stratified by location in the City, in the second quarter of 2011, of between 6.25 and 7 per cent.

[14] The Complainant contended that, having regard to the similar land lease restrictions applicable in the Research Park and the very restricted uses that could be made of both the land and the buildings, an upward adjustment of 0.50 per cent to the cap rate was justified for the subject.

[15] The Respondent's position was that the land must be assessed as a fee simple estate, unencumbered by other interests, although the City does apply an adjusted cap rate to acknowledge the special circumstances at the Airport. The Airport lands, she said, are analyzed as an entity, not on the basis of one building. She said that there was no similar study of the Research Park as an entity acknowledging its special circumstances or adjustments for them. She acknowledged that she had not provided a cap rate study to support the assessment.

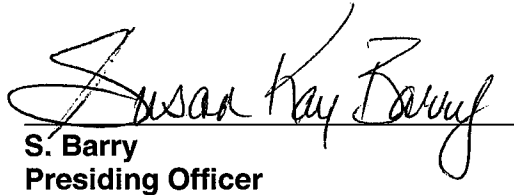
[16] The Board found that Complainant's comparison of the Research Park to the Airport lands was compelling and clearly showed that the City was prepared, in some special instances, to modify its fee simple analysis with special adjustments. The Board noted that even the market rent adjustment between the landlord and the tenant is intended, when rents are renegotiated, to reflect the use and development restrictions in the Park. Accordingly, the Board agreed that an upward adjustment of the cap rate to 7.5 per cent was justified.

**Board's Decision:**

[17] The Board decided that the allocation of space within the premises is to be adjusted as follows: 173,968 (sq.ft.) be assessed as Office Space; 21,807 sq.ft. be assessed as below grade Office Space; and 9,094 sq.ft. be assessed as Storage.

[18] The 2012 Assessment is reduced to \$50,335,000, achieved by applying a cap rate of 7.5 per cent to the Respondent's adjusted NOI of \$3,775,421.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF OCTOBER 2012.

  
S. Barry  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's Rebuttal

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*

## For MGB Administrative Use Only

Decision No.: 2121/2012-P		Roll No.: 037182508		
Subject	Property Type	Ppty Sub-type	Issue	Sub-Issue
CARB	Office	Stand Alone	Income App	Rent and Cap Rate; space re-allocation